



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/954,621	09/17/2001	Jerry G. Hodsdon	310048-561	6827

7590 09/23/2005

DOUGLAS N. LARSON, ESQ.
SQUIRE, SANDERS & DEMPSEY L.L.P.
801 S. FIGUEROA ST., 14TH FLOOR
LOS ANGELES, CA 90017-5554

EXAMINER

AHMAD, NASSER

ART UNIT	PAPER NUMBER
----------	--------------

1772

DATE MAILED: 09/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/954,621

Applicant(s)

HODSDON ET AL.

Examiner

Nasser Ahmad

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-29,44,45,47-50,52,54-75,77-81,84-89 and 91-96 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-29,44,45,47-50,52,54-75,77-81,84-89 and 91-96 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Rejections Maintained

1. Claims 19-26, 29, 44-45, 47-48, 50, 52, 54-55, 57-62, 65, 67, 69, 71-73, 75, 77, 79-81, 84-85, 87-89, 92 and 94-96 are rejected under 35 U.S.C. 102(b) as being anticipated by Grass (4188251) for reasons of record in the last Office Action mailed on February 23, 2005.

2. Claims 27-28, 49, 56, 63-64, 66, 68, 70, 74, 78, 86, 91 and 93 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grass for reasons of record in the last Office Action

Response to Arguments

3. Applicant's arguments filed June 27, 2005 have been fully considered but they are not persuasive.

Applicant argues that Claim 19 has been amended to include non-label portions of the facestock. This is not found to be convincing because, as shown in Grass, the labels can be taken to be alternate elements (17) with in-between elements being taken to be the non-label portion.

Contrary to applicant's position that the Grass reference teaches microperf lines and not cut lines, applicant should note that the microperf lines are also cut lines, unless shown otherwise by the applicant. For the perforations to be made, the sheet has to be cut into. Similarly, the presence of cut lines with short sections of uncut material (claim 50) constitute perforation line.

Art Unit: 1772

Grass clearly shows the elements of claim 57.

For claim 65, the phrase "not being a weakened line portion" is found to be negative limitation and does have express support in the specification as originally filed and is new matter.

Claims 67 and 75, the phrase "non-label waste portion" the explanation discussed hereinabove applies *a fortiori* herein.

Regarding claims 73 and 77, the Grass label portion is covered in its entirety with adhesive and is attached to another label portion.

Applicant also argues that "adapted to" phrase imparts structural limitations and that it is improper to ignore specific limitations that distinguish over the cited references. This is not found to be persuasive because the phrase "adapted to" have not been ignored by the examiner as alleged by the applicant. Rather, said "adapted to" phrase have been considered but not found to be of patentable weight because it is directed to an intended use of the label product. For example, in claim 19, the phrase "adapted to" is directed to being bent back after the label sheet has been constructed but does not have to be bent back. Similarly, also in claim 19, the phrase "can be" is directed to an intended future use in that it does not require to be grasped by the user.

Thus, in the absence of any evidence to the contrary, it remains the examiner's position that the claimed invention is anticipated or rendered obvious over the prior art of record discussed above.

4. The following is a new ground of rejection:

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claim 65 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The phrase "not being a weakened" is found to be new matter for lack of express support from the specification.

Conclusion

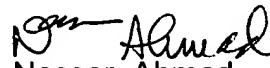
7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nasser Ahmad whose telephone number is 571-272-1487. The examiner can normally be reached on 7:30 AM to 5:00 PM, and on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Nasser Ahmad 9/17/05
Primary Examiner
Art Unit 1772

N. Ahmad.
September 17, 2005.